

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

DEC 16 1996

In the Matter of)

)
)
Amendment of the Commission's Rules to
Establish Part 27, the Wireless
Communications Service ("WCS"))

GN Docket No. 96-228

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS OF COMCAST CORPORATION

Comcast Corporation ("Comcast"), by its attorneys, hereby submits its reply comments on the above-captioned rulemaking proceeding.^{1/} Comcast has participated in various personal communications service ("PCS") auctions, and supports the use of auctions to allocate spectrum. Comcast supports the Commission's proposal to auction Wireless Communications Service ("WCS") spectrum without a set allocation because, as the comments show, there is no consensus on a specific "best" use for WCS and Congress has mandated that the Commission auction this spectrum quickly. Commenters do agree, however, that multiple WCS licenses should be auctioned on a Major Trading Area ("MTA") or Basic Trading Area ("BTA") basis with few restrictions on eligibility except those that might be necessary to preserve competition.

Auctions work because they allow spectrum to be allocated efficiently to the parties that value it most. The comments show that the optimum use for WCS, and hence its highest value, has yet to be determined. Some commenters support using WCS for commercial mobile radio

^{1/} See Notice of Proposed Rulemaking, GN Docket No. 96-228, FCC 96-441 (released November 12, 1996) (the "Notice").

services ("CMRS"),^{2/} while other commenters are opposed.^{3/} Some commenters support using WCS for various types of fixed local loop services, and urge the Commission to allocate WCS for wireless Internet and other high-speed data transmission services.^{4/} The range of suggested uses for WCS is broad, yet no commenter or industry group has presented a compelling argument for any specific one. Congress required the Commission to auction WCS spectrum quickly, and neither the Commission nor the industry has the luxury of working through a multi-year process to determine how WCS might best be used.^{5/} At this juncture, the record supports the conclusion that the public interest will be advanced if the Commission adopts its proposal to allow WCS auction winners to determine their own uses for WCS.^{6/}

^{2/} See, e.g., Comments of AT&T Wireless Services, Inc. at 7-8.

^{3/} See, e.g., Comments of PrimeCo Personal Communications, L.P. at 6.

^{4/} Comments of DSC Communications Corporation at 1 (wireless fixed access local loop); Comments of Lucent Technologies, Inc. at 2 (wireless broadband data and wireless local loop); Comments of Omnipoint Corporation at 2 (wireless local loop and wireless Internet services).

^{5/} The Commission must ensure that all proceeds of the bidding on WCS spectrum are on deposit no later than September 30, 1997. Notice at ¶ 2. See also Comments of Omnipoint Corporation at 2-3 (discussing the comprehensive PCS proceedings that "allowed the industry time to develop both a market assessment of demand for PCS as well as time to build products to meet the operators needs before the PCS auctions commenced.").

^{6/} Notice at ¶ 32 ("we propose to rely on the applicant to identify the type of WCS service or services it will provide, with sufficient detail to enable the Commission to determine the applicant's regulatory status.") Comcast recognizes the issues discussed by some commenters about the potential uncertainty that non-allocation poses. See, e.g., Comments of Motorola at 6; Comments of Alcatel Network Systems, Inc. at 2. Given, however, the short time period during which Congress decreed the auction must take place and the lack of consensus on a use for WCS displayed in the comments, the Commission has no choice but to auction WCS on a non-service specific basis.

Commenters do broadly agree that WCS should be auctioned on either an MTA or BTA basis with multiple licenses per market.^{7/} Multiple licenses and moderately-sized geographic areas would maximize auction participation and encourage the development of WCS. In contrast, the financial commitment associated with regional or national licenses or large spectrum blocks would preclude all but the very largest auction participants and would stifle experimentation with new service applications.^{8/}

Comcast supports the establishment of two 15 MHz licenses in each MTA or BTA market.^{9/} Establishing multiple licenses will best promote competition because it will allow different parties to use WCS for different services, thus making more new services available to a broad range of consumers. Further, allowing parties to aggregate or disaggregate spectrum as the Commission proposes will permit parties to maximize spectrum use, and thus spectrum value, as they provide their new services using the most efficient amount of spectrum (and no more).^{10/} Build-out requirements should not be imposed because market-driven consumer

^{7/} See, e.g., Comments of BellSouth Corporation at 6-8 (licenses should be granted on a BTA basis); Comments of Pacific Telesis Group at 2-3 (licenses should be granted on a MTA basis); Comments of Bell Atlantic NYNEX Mobile, Inc. at 3-8 (licenses should be granted on either an MTA or BTA basis).

^{8/} See, e.g., Comments of The Personal Communications Industry Association at 13-15; Comments of AT&T at 3-4. Only two commenters support allocating WCS spectrum via a nationwide license or licenses, and both support its use for wireless data services. See Comments of the Markle Foundation; Comments of Vanderbilt University. Neither party explains why a nationwide license would better serve the needs of the K-12 and other educational and health care users these two commenters discuss than would more targeted, regional or local licenses using an MTA or BTA licensing scheme.

^{9/} See, e.g., Comments of Vanguard Cellular Systems, Inc. at 5; Comments of DSC Communications Corporation at 4-5; Comments of ADC Telecommunications, Inc. at 17-22.

^{10/} Notice at ¶¶ 27-29. See Comments of Digital Satellite Broadcasting Corporation at (continued...)

demand for new wireless services will be sufficient to meet Section 309(j)'s objectives regarding spectrum warehousing and rapid deployment.^{11/} In addition, unlike PCS for which build out requirements were adopted, it is not feasible to adopt such requirements when the services to be provided are not known and Congress has required the auctions to be completed on a very ambitious schedule.

Additionally, maximum use and value for WCS will be achieved if restrictions are not placed on any party's ability to hold and use WCS spectrum.^{12/} Market forces will determine how WCS will be used, and the flexibility proposed for WCS will allow different segments of the communications industry to use WCS in different manners to meet market needs. Similarly, while there is no need to include WCS spectrum in the 45 MHz CMRS spectrum cap, WCS spectrum should count toward the spectrum cap limit if it is used in a market by an incumbent CMRS provider to provide mobile telephony services. Inclusion of WCS in the spectrum cap only in cases where market concentration, and the potential decrease in competition, could be at issue will best serve the public interest because it will promote both a diversity of uses for WCS and a diversity of spectrum holders.

Given the Congressional limits on the Commission's ability to establish a set allocation for WCS, Comcast agrees with the Commission's proposal to auction WCS and let auction winners determine how the spectrum will be used. Establishing a number of licenses in

^{10/} (...continued)
7-9; Comments of the Personal Communications Industry Association at 18-19.

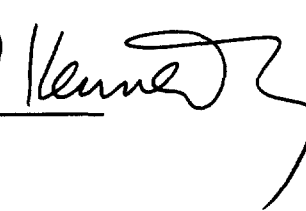

^{11/} Notice at ¶ 56-61. See Comments of AT&T Wireless Services, Inc. at 9; Comments of DigiVox Corporation at 7-8.

^{12/} Notice at ¶ 23. See, e.g., Comments of the Cellular Telecommunications Industry Association at 8.

moderately-sized geographic areas will best serve the public interest because it will advance the establishment of innovative uses for WCS. Comcast urges the Commission to adopt final rules for WCS swiftly in conformance with the reply comments above so that parties can begin to study the spectrum and set their auction plans.

Respectfully submitted,

COMCAST CORPORATION



Leonard J. Kennedy
Christina H. Burrow

Its Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

December 16, 1996